

REMARKS

In response to the Restriction Requirement dated January 05, 2007, Applicant provisionally elects, with traverse, to prosecute the invention of Group I, claims 1-13.

Applicant notes for the record that the Restriction Requirement fails to address all of pending claims 1-40, but instead, only addresses claims 1-26 and 34-40. Accordingly, Applicant respectfully requests reconsideration and issuance of a corrected Restriction Requirement, and a further opportunity to respond to the same.

In addition, Applicant respectfully submits that the Restriction Requirement improperly treats Groups I and II as subcombinations disclosed as usable together in a single combination. The Restriction Requirement asserts that “subcombination II has separate utility such as it could be used to retract tissue.” Applicant traverses and submits that the Examiner has not set forth a reasonable argument as to why Group II, but not Group I, can be used for retraction. Indeed, the Examiner has identified no particular feature of Group II that is consistent with retraction.

Furthermore, the Examiner asserts that “inventions II and III are related as combination and subcombination” and that “the subcombination has separate utility such as it could be used as a retractor.” Applicant traverses and submits that such reasoning is logically inconsistent with the Restriction Requirement treatment of Groups I and II. On the one hand, the Examiner asserts that “subcombination II could be used to retract tissue” and yet on the other hand subcombination III “has separate utility such as it could be used as a retractor.” In view of this apparent inconsistency, Applicant requests withdrawal of the Restriction between Groups I, II, and III or alternatively, requests clarification and a full opportunity with which to respond.

The Restriction Requirement asserts that “inventions III and I are related as combination and subcombination” and that “the subcombination has separate utility such as it could be used alone to surround and occlude a body passage once inflated.” Applicant respectfully traverses and submits that such reasoning is improper. The independent claims of Group III and I are silent as to surrounding, occluding, and inflating and the Examiner does not set forth evidence to support such assertions. Applicant requests withdrawal of the Restriction Requirement or clarification along with a full opportunity with which to respond.

Moreover, Applicant respectfully submits that there is no objective evidence that there

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would be an undue burden on the Examiner to examine Groups I, II, III, and IV together.

In sum, Applicant respectfully requests withdrawal of the Restriction Requirement, and examination together of all claims now pending in this patent application.

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CONCLUSION

Applicant respectfully submits that the claims are in condition for allowance, and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney at (612) 373-6911 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

TIMOTHY W. OLSEN ET AL.

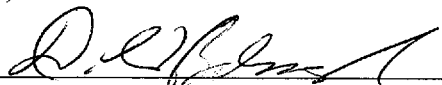
By their Representatives,

SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A.

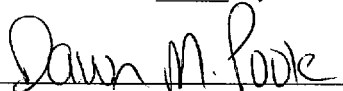
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Date February 5, 2007 By 
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CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being filed using the USPTO's electronic filing system EFS-Web, and is addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on this 5th day of February, 2007.


Name


Signature